

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA; STATE
OF NEW YORK; AND BASIL SEGGOS, AS
COMMISSIONER OF THE NEW YORK
STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION,

Plaintiffs,

v.

CITY OF MOUNT VERNON,

Defendant.

No. 18 Civ. 5845 (CS)

~~PROPOSED~~ SUPPLEMENTAL
ORDER

CATHY SEIBEL, United States District Judge:

Whereas the parties appeared for a teleconference on March 2, 2021, it is hereby ordered,
for the reasons stated on the record, as follows:

Capacity, Management, Operations and Maintenance (“CMOM”) Program

1. The City of Mount Vernon (the “City”) must conduct and document routine inspection and maintenance required by its CMOM Program for its Sanitary Sewer System, including daily pump station and hot spot inspections, as specified in Sections 3.b and 3.c of the City’s CMOM.

2. The City must initiate a plan to staff its designated telephone number for sewage-related complaints and to respond to calls raising such complaints within one hour, as required by Section 1.d of the City’s CMOM.

3. No later than March 23, 2021, the City must submit a revised CMOM to the U.S. Environmental Protection Agency (“EPA”) and New York State Department of Environmental

Conservation's ("DEC"), addressing each of the comments that EPA and DEC provided to the City on February 11, 2021.

Adequate Funding and Equipment

4. The City Comptroller shall create a unique accounting code, as well as an account specifically designated to fund work necessary to comply with the Court's September 21, 2020 Order and this Order. All invoices submitted by DPW on or after the date of this Order related to work necessary to comply with the Court's September 21, 2020 Order and this Order shall use and refer to this new accounting code. This Order does not require resubmission of previously submitted invoices.

5. Beginning the week of March 8, 2021, the City Comptroller shall send DPW the DPW expense reports each week, and the expense reports must identify the balance of funds available, which invoices have been received, which invoices have been paid, and from what accounts they were paid.

6. By March 9, 2021, the City Comptroller shall either pay all outstanding invoices submitted by the Department of Public Works ("DPW") ~~invoices~~ or shall advise DPW in writing by e-mail, of any problem that prevents the payment of an invoice.

7. By March 16, 2021, DPW shall address any problem identified by the City Comptroller regarding any outstanding invoice so that payment can be completed. Once addressed, the City Comptroller shall promptly pay such invoices.

8. By no later than March 31, 2021, the City shall order a SPIDER and any other equipment necessary for its Illicit Discharge and Detection Elimination Program. *See also* ECF No. 74 ¶ 14.

9. By April 2, 2021, the City shall provide an estimated budget (and any

contingency issues) for the remaining work to be done under the Court's September 21, 2020 Order. *See* ECF No. 74.

10. By April 2, 2021, the City shall provide a detailed plan for how the City anticipates funding the remaining projects (e.g., from the City's budget, from grant reimbursement, or other means).

11. By April 21, 2021, the City shall address all outstanding paperwork and documentation issues for the \$1.6M New York Water Quality Improvement Project grant.

12. The Comptroller shall pay all DPW regular and overtime pay in full, within two weeks of submission of the timekeeping by the DPW Commissioner. In the event the information submitted is incomplete, the Comptroller shall notify the DPW Commissioner within 24 hours so that any missing information can be promptly submitted and ~~shall be~~ ^{DPW employees} promptly paid in accordance with the terms of this section.

Enforcement Actions

13. By April 21, 2021, the City shall complete sewer connection inspections of at least 20 addresses listed in Appendix A of the Court's September 21, 2020 Order; by May 21, 2021, the City shall complete sewer connection inspections of an additional 20 addresses listed in Appendix A; and by June 21, 2021, the City shall complete any remaining sewer connection inspections of addresses listed in Appendix A. *See* ECF No. 74 ¶ 5 & Appendix A.

14. By April 21, 2021, the City shall make determinations regarding whether or not to initiate enforcement actions of at least 11 addresses listed in Appendix A of the Court's September 21, 2020 Order; by May 21, 2021, the City shall make determinations regarding whether or not to initiate enforcement actions of another 17 addresses listed in Appendix A; by June 21, 2021, the City shall make determinations regarding whether or not to initiate

enforcement actions of another 17 addresses listed in Appendix A; by July 21, 2021, the City shall make any remaining determinations regarding whether or not to initiate enforcement actions of addresses listed in Appendix A. *See* ECF No. 74 ¶ 5 & Appendix A.

Outfall Repair Work and Documentation

15. The City shall begin the remaining repair work for the Overlook Street sanitary sewage lines no later than March 12, 2021, and shall complete the work within three weeks. *See* ECF No. 74 ¶ 9.b.

16. The City shall provide EPA and DEC photographs, invoices, and confirmation of payment for the completed Overlook Street storm drain repairs by ~~March 26~~ ^{April 2}, 2021, and shall submit the remaining documentation pertaining to the sanitary sewage line repair work within two weeks of the completion of that work. *See* ECF No. 74 ¶ 24(h).

17. The City shall provide all photographs, invoices, and confirmation of payment to EPA and DEC for the Washington Street repairs by ~~March 19~~ ²⁶, 2021. *See* ECF No. 74 ¶¶ 9.d, 24(h).

Inspections of Currently Identified Impaired Outfalls

18. By ~~March 19~~ ²⁶, 2021, the City shall provide documentation of visual inspections of currently identified impaired outfalls, including location, date and, if available, photographs. *See* ECF No. 74 ¶¶ 3-4.

Staffing

19. The City shall promptly provide Plaintiffs with the qualifications of the City's Stormwater Coordinator, and no later than April 21, 2021, ensure that the Stormwater Coordinator completes all MS4-specific required training for illicit discharge detection and

elimination, construction, post-construction, and good housekeeping, as required by Parts VII.A.3-VII.A.6 of the MS4 Permit.

Reporting

20. By March 26, 2021, the City Mayor, the City Comptroller, any employees within the Comptroller's office responsible for DPW accounts payable, including the Deputy Comptroller, and the DPW Commissioner, DPW Deputy Commissioner, the Stormwater Coordinator, and the City Engineer that implement the Court's September 21, 2020 Order, each shall read the Court's September 21, 2020 Order, this Order, the MS4 Permit, and the City's CMOM, and certify that they have done so.

21. By ~~April 2~~^{March 31}, 2021, the City shall submit and file a revised annual report as set forth in Paragraph 21 of the Court's September 21, 2020 Order, including detail about the City's compliance and non-compliance with the Order. *See* ECF No. 74 ¶ 21.

22. By ~~April 2~~^{March 31}, 2021, the City shall submit a semi-annual report as set forth in Paragraph 24 of the Court's September 21, 2020 Order, including the information set forth in each sup-part of Paragraph 24. *See* ECF No. 74 ¶ 24.

23. By the last day of the month (or the first business day thereafter in the event the date is a weekend or holiday), the City shall submit to EPA and DEC a monthly report, in the form of a tracking table, that identifies all work completed or not completed during the preceding month that is required under the September 21, 2020 Order and this Order.

24. The City shall notify EPA and DEC within one week of any missed deadline provided for in the Court's September 21, 2020 Order or this Order, and provide a justification for the delay and a proposed completion date, with a justification for why the additional time is necessary.

Additional MS4 Outfall Reconnaissance Inventory

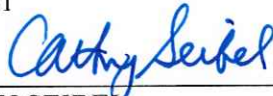
25. In addition to the obligations set forth in paragraph 12 of the September 21, 2020 Order, the City shall complete an additional MS4 Outfall Reconnaissance Inventory for all MS4 outfalls in accordance with the 2015 MS4 General Permit by October 22, 2021. *See* ECF No. 74 ¶ 12.

Sewer System Evaluation Survey

26. In addition to the obligations set forth in paragraphs 19 of the September 21, 2020 Order, the City shall complete an additional Sewer System Evaluation Survey of the sanitary sewer system by October 22, 2021. *See* ECF No. 74 ¶ 19.

27. This Order supersedes the March 2, 2021 Minute Entry posted on the docket.

Dated and entered this 10th day of March, 2021



CATHY SEIBEL
UNITED STATES DISTRICT JUDGE